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IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
ROANOKE DIVISION

LIONEL THOMAS HURD,
Petitioner,

Civil Action No. 7:17-cv-000237

v.

MEMORANDUM OPINION

COMMONWEALTH OF VA.,
Respondent.

By: Hon. Jackson L. Kiser
Senior United States District Judge

Lionel Thomas Hurd, a Virginia inmate proceeding pro se, filed a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254 to challenge the judgment entered by the Circuit Court for Washington County (ECF No. 7). Court records indicate that Petitioner previously filed a § 2254 petition about the same judgment in Hurd v. Clarke, No. 7:14cv381 (W.D. Va. Dec. 11, 2014). Thus, Petitioner's current petition is a subsequent one, falling under the prohibition in 28 U.S.C. § 2244(b) against a second or successive petition. Pursuant to that section, a federal district court may consider a second or successive § 2254 petition only upon specific certification from a United States Court of Appeals that claims in the subsequent petition meet certain criteria.

Petitioner has not submitted any evidence that he has obtained that certification, and I must dismiss the petition without prejudice as successive. None of the claims eligible for habeas relief describes a new fact to make a second petition non-successive. See, e.g., Panetti v. Quarterman, 551 U.S. 930, 942-47 (2007) (discussing facts relevant to second but not successive petitions); Edwards v. Balisok, 520 U.S. 641, 645-47 (1997) (recognizing the differences between habeas remedies and remedies available in a civil rights action). Based upon the finding that Petitioner has not made the requisite substantial showing of a denial of a constitutional right

as required by 28 U.S.C. § 2253(c) and Slack v. McDaniel, 529 U.S. 473, 484 (2000), a certificate of appealability is denied.

ENTER: This 15th day of August, 2017.

Senior United States District Judge